

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MICHAEL MCCARTHY, *et al.*,

Plaintiffs,

v.

CHARLES D. BAKER, *et al.*,

Defendants.

)
)
) CIVIL ACTION NO.
) 1:20-cv-10701-DPW
)
) PRELIMINARY EQUITABLE
) RELIEF REQUESTED
)
)
)
)

DECLARATION OF DAVID D. JENSEN, ESQ.

I, David D. Jensen, declare as follows:

1. I am counsel for Plaintiffs in the above-captioned matter. I submit this declaration to authenticate various documents cited in the McCarthy Plaintiffs' Motion for Summary Judgment and associated papers. I am over 18 years of age and am competent to testify on my own behalf.

2. Attached as Exhibit 1 is a true and correct copy of COVID-19 Executive Order No. 32, dated May 15, 2020. I downloaded this from the following website maintained by the Commonwealth of Massachusetts: <https://www.mass.gov/doc/may-15-2020-24-hour-extension-order/download>.

3. Attached as Exhibit 2 is a true and correct copy of COVID-19 Executive Order No. 34, dated May 18, 2020. I downloaded this from the following website maintained by the Commonwealth of Massachusetts: <https://www.mass.gov/doc/may-18-2020-expanded-beach-access/download>.

4. Attached as Exhibit 3 is a true and correct copy of COVID-19 Executive Order No. 43, dated July 2, 2020. I downloaded this from the following website maintained by the

Commonwealth of Massachusetts: <https://www.mass.gov/doc/phase-3-order-july-2-2020/download>.

5. Attached as Exhibit 4 is a true and correct copy of a section entitled, “When can my business reopen?” from a website entitled “Reopening Massachusetts.” I downloaded this from the following website maintained by the Commonwealth of Massachusetts:

<https://www.mass.gov/news/reopening-massachusetts-baker-polito-administration-initiates-transition-to-first-phase-of>.

6. Attached as Exhibit 5 is a true and correct copy of a section entitled, “COVID-19 Dashboard” for Sept. 22, 2020 from a website operated by the Massachusetts Department of Public Health. I downloaded this from the following website maintained by the Commonwealth of Massachusetts: <https://www.mass.gov/doc/covid-19-dashboard-september-22-2020/download>.

7. Attached as Exhibit 6 is a true and correct copy of the *Covid in the U.S.: Latest Map and Case Count* as downloaded from the webpage of the New York Times on Sept. 23, 2020 at 12:08 p.m. E.T.. I downloaded this from the following website maintained by the New York Times: <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>.

8. Attached as Exhibit 7 is a true and correct copy of the following article: Danica Kirka and Sylvie Corbet, *Europe adopts tougher virus restrictions as infections surge*, AP News (Sept. 21, 2020). I downloaded this from the following website maintained by AP News: <https://apnews.com/0e5766bdb37e735169281fa5a4ff1b3f>.

9. Attached as Exhibit 8 is a true and correct copy of the following article: Joel Achenbach and Rachel Weiner, *Experts project autumn surge in coronavirus cases, with a peak after Election Day*, Washington Post (Sept. 5, 2020). I downloaded this from the following website maintained by the Washington Post:

https://www.washingtonpost.com/health/coronavirus-fall-projections-second-wave/2020/09/04/6edb3392-ed61-11ea-99a1-71343d03bc29_story.html.

10. Attached as Exhibit 9 is a true and correct copy of a document produced by the Defendants in this litigation under the control number GOV0746. On information and belief, these are Governor Baker's notes from comments he gave during a Republican leadership conference call on April 7, 2020.

11. Attached as Exhibit 10 are true and correct copies of a document produced by the Defendants in this litigation under the control numbers GOV0042-46, GOV0158-59 and GOV0426-54. On information and belief, these are communications directed to Governor Baker's office that concern public opinions about the closure of gun stores and ranges. These communications have been redacted to remove residential street addresses, personal phone numbers and email addresses that are not already widely known.

12. Attached as Exhibit 11 is a true and correct copy of a document produced by the Defendants in this litigation under the control number DCJIS0181. On information and belief, this is a "tweet" (from the social media platform Twitter) that Attorney General Maura Healey made on April 1, 2020.

13. Attached as Exhibit 12 is a true and correct copy of the following article: Matt Murphy, *Baker reversed course on gun shop, range openings*, Lowell Sun (April 2, 2020). I downloaded this from the following website maintained by the Lowell Sun:

<https://www.lowellsun.com/2020/04/02/baker-reversed-course-on-gun-shop-range-openings/>.

I affirm all of the foregoing statements under the penalty of perjury under the laws of the United States of America.

Dated: September 24, 2020

/s/ David D. Jensen
David D. Jensen, Esq.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 24, 2020.

/s/ David D. Jensen
David D. Jensen, Esq.